

ALVORD AND ALVORD
ATTORNEYS AT LAW
918 SIXTEENTH STREET, N.W.
SUITE 200
WASHINGTON, D.C.

ELIAS C. ALVORD (1942)
ELLSWORTH C. ALVORD (1964)

20006-2973
(202) 393-2266
FAX (202) 393-2156

OF COUNSEL
URBAN A. LESTER

18625
RECORDATION NO. _____ FILED 1425

DEC 27 1993 -3 40 PM

INTERSTATE COMMERCE COMMISSION

December 27, 1993

Mr. Sidney L. Strickland, Jr.
Secretary
Interstate Commerce Commission
Washington, D.C. 20423

Dear Mr. Strickland:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. Section 11303(a) are two executed copies of an Equipment Mortgage, dated as of December 27, 1993, a primary document as defined in the Commission's Rules for the Recordation of Documents under 49 C.F.R. Section 1177,

The names and addresses of the parties to the enclosed document are:

Debtor: Residual Based Finance Corporation
Three First National Plaza, Suite 1240
Chicago, Illinois 60602

Secured Party: The CIT Group/Equipment Financing, Inc.
1211 Avenue of the Americas
New York, New York 10036

A description of the railroad equipment covered by the enclosed document is:

Ninety-six (96) covered hopper cars having road marks and numbers OFCX 600 through 699 (excluding 615, 650, 679 and 685) formerly marked FLIX and numbered 600 through 699 (excluding 615, 650, 679 and 685).

Handwritten signatures:
E. C. Alvord
E. C. Alvord

Mr. Sidney L. Strickland, Jr.
December 27, 1993
Page 2

Also enclosed is a check in the amount of \$18.00 payable to the order of the Interstate Commerce Commission covering the required recordation fee.

Kindly return stamped copies of the enclosed documents to the undersigned.

Very truly yours,

Robert W. Alvord

RWA/bg
Enclosures

18625
RECORDATION NO. _____ FILED 1425

EQUIPMENT MORTGAGE DEC 27 1993-3 40 PM

INTERSTATE COMMERCE COMMISSION

THIS EQUIPMENT MORTGAGE ("Mortgage") is granted as of December 27, 1993, by RESIDUAL BASED FINANCE CORPORATION, an Illinois corporation ("Borrower"), to THE CIT GROUP/EQUIPMENT FINANCING, INC., a New York corporation ("Lender").

WHEREAS, Lender extended certain credit and other financial accommodations to Borrower pursuant to that certain Loan and Security Agreement of even date herewith (as amended, the "Loan Agreement"); and

WHEREAS, Borrower has agreed to grant to Lender the liens and security interests in the railcars described on Schedule 1 hereto (the "Railcars") and other personal property described herein;

NOW, THEREFORE, for and in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

SECTION 1. COLLATERAL.

Section 1.1 Grant of Security Interest. As security for the Liabilities (as defined in the Loan Agreement), Borrower hereby grants to Lender a security interest in and chattel mortgage on all of the following:

(a) The Railcars, together with all accessories, equipment, parts and appurtenances appertaining or attached thereto, whether now owned or hereafter acquired, and all additions, improvements, accessions and accumulations to any and all of said equipment, including, without limitation, any and all substitutions, renewals or replacements of any of the foregoing, together with all the rents, issues, income, proceeds and avails therefrom but excluding parts owned by Lessee that can be removed without damage to the Equipment and which removal will not prevent the Equipment from being loaded and unloaded or from transporting the commodity for which it was built (collectively, the "Equipment");

(b) All proceeds (including, without limitation, insurance and indemnity payments) from the sale or loss or other disposition of the Equipment;

(c) All of Borrower's leases, assignments, usage agreements, management agreements, bailment agreements and any other arrangements to deliver possession relating to the Equipment, including, without limitation, the Lease (as defined in the Loan Agreement) (collectively, the "Leases"), whether now or hereafter existing, between the Borrower as lessor and other parties as lessees, users or otherwise (the "Lessees"), including, without limitation,

(i) all rents thereunder, (ii) all claims for damages arising out of the breach of any Lease, (iii) the right, if any, to terminate any Lease, to perform thereunder and to compel performance of the terms thereof, (iv) the right to take possession of the Equipment and to use any and all of the Equipment, subject to the right of the Lessees therein, (v) the right to make all waivers and agreements and to enter into any amendments relating to any Lease or any provision thereof, (vi) the right to take such action upon the occurrence of an event of default under any Lease, including, without limitation, the commencement, conduct and consummation of legal, administrative or other proceedings, as shall be permitted by any Lease or by law, and (vii) all other rights, claims, causes of action, if any, which Borrower may have against any Lessee with respect to any Lease including, without limitation, the right to exercise any options or remedies under such Leases and the right to enforce any indemnification provision under the Lease; and

(d) All books, records, reports and documents, in whatever form and wherever located relating in any way to the foregoing, including, without limitation, all maintenance records, plans, specifications, lease records and reports (the "Records").

All such Equipment, Leases, Records, rights, claims and causes of action described in the immediately preceding clauses (a), (b), (c) and (d) and proceeds with respect thereto are herein collectively referred to as the "Collateral."

Section 1.2. Representations and Warranties of Borrower. Borrower represents and warrants:

(a) That the Railcars are properly described and identified by serial, road or other identifying mark and number on Schedule 1 hereto and hereby made a part hereof.

(b) That all existing Leases are set forth on Schedule 2 hereto and have been collaterally assigned to Lender pursuant to that certain Assignment of Rents and Leases of even date herewith (the "Assignment").

Section 1.3. Loan Agreement. Borrower agrees to perform each and every obligation of Borrower under or pursuant to the Loan Agreement. To the extent there is a conflict between the terms of the Loan Agreement and the terms of this Assignment, the terms of the Loan Agreement shall control.

SECTION 2. DEFAULT

Section 2.1. Events of Default. The occurrence of any Event of Default under the Loan Agreement or the Assignment shall constitute an Event of Default hereunder.

SECTION 3. REMEDIES.

Section 3.1. Remedies. Upon the occurrence and during the continuance of any Event of Default, Lender may do any one or more of the acts set forth in the Loan Agreement in the Event of a Default thereunder or hereunder (but shall be under no obligation to do so), regarding the Collateral, or any portion thereof. In the event that Lender exercises any of its rights under this Mortgage, all payments or proceeds received by Lender resulting from such exercise shall be applied in accordance with the terms of the Note.

Section 3.2. Sale. Any sale of the Collateral may be in one lot as an entirety or in separate lots and without the necessity of gathering at the place of sale the property to be sold, and in general in such manner as Lender may determine. Lender may bid for and become the purchaser of the Equipment or the Leases, or any portion thereof, so offered for sale. In the event that Lender shall be the purchaser thereof, it shall not be accountable to Borrower upon a subsequent disposition of such property.

Section 3.3. [Intentionally Omitted]

Section 3.4. Waiver by Borrower. To the extent permitted by law, and except as otherwise expressly provided herein to the contrary, Borrower covenants that it will not at any time insist upon or plead, or in any manner whatever claim or take any benefit or advantage of, any stay or extension law now or at any time hereafter in force, nor claim, take, or insist upon any benefit or advantage of or from any law now or hereafter in force providing for the valuation or appraisal of the Collateral or any part thereof prior to any sale or sales thereof to be made pursuant to any provision herein contained, or pursuant to the decree, judgment or order of any court of competent jurisdiction; and, to the full extent legally permitted, hereby expressly waives for itself and on behalf of each and every person, except decree or judgment creditors of Borrower acquiring any interest in or title to the Collateral, or any part thereof subsequent to the date of this Mortgage, all benefit and advantage of any such law or laws, and covenants that it will not invoke or utilize any such law or laws or otherwise hinder, delay or impede the execution of any power herein granted and delegated to Lender, but will suffer and permit the execution of every such power as though no such power, law or laws had been made or enacted.

SECTION 4. GENERAL.

Section 4.1. Rights Cumulative. Each and every power and remedy hereby specifically given to Lender shall be in addition to every other power and remedy hereby specifically given or now

or hereafter existing at law or in equity, and each and every power and remedy may be exercised from time to time simultaneously and as often and in such order as may be deemed expedient by Lender. All such powers and remedies shall be cumulative, and the exercise of one shall not be deemed a waiver of the right to exercise any other or others. No delay or omission of Lender in the exercise of any such power or remedy and no renewal or extension of any payments due under the Loan Agreement shall impair any such power or remedy or shall be construed to be a waiver of any default or an acquiescence therein. Any extension of time for payment or other indulgence duly granted to Borrower shall not otherwise alter or affect Lender's rights or the Liabilities. Lender's acceptance of any payment after it shall have become due under the Loan Agreement shall not be deemed to alter or affect the Liabilities or Lender's rights hereunder with respect to any subsequent payments or default therein.

Section 4.2. Waiver. Except as otherwise provided in this Mortgage or in the Loan Agreement, Borrower, to the full extent permitted by law, hereby waives all statutory or other legal requirements for any notice of any kind, notice of intention to take possession of or to sell or lease the Collateral, and any other requirements as to the time, place and terms of the sale or lease thereof, and any other requirements with respect to the enforcement of Lender's rights under this Mortgage.

Section 4.3. Satisfaction of Mortgage and Termination of Mortgage. When all the Liabilities have been paid in full and the Notes have been cancelled, Lender shall release the lien of this Mortgage with respect to the Collateral by an appropriate document in recordable form and thereupon this Mortgage shall be satisfied and void.

Section 4.4. Section Headings, Effect and Modification of Agreement. All section headings are inserted for convenience only and shall not affect any construction or interpretation of this Mortgage.

Section 4.5. Modifications. No variation or modification of this Mortgage and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized representatives of Lender and Borrower.

Section 4.6. Notices. Except as otherwise expressly herein, any notice required or desired to be served, given or delivered hereunder shall be in writing, and shall be deemed to have been validly served, given or delivered (i) three (3) days after deposit in the United States mails, with proper postage prepaid, (ii) when sent after receipt of confirmation or answerback if sent by telecopy, telex or other similar facsimile transmission, (iii) one (1) Business Day after deposited with a reputable overnight courier with all charges prepaid, or (iv) when delivered, if hand-delivered by messenger, all of which shall be properly addressed to the party to be notified and sent to the address or number indicated as follows:

(i) If to Lender at:

THE CIT GROUP/EQUIPMENT FINANCING, INC.
1211 Avenue of the Americas
New York, New York 10036
Attention: Senior Vice President - Credit
Fax Number: 212-536-1385

with a copy to:

THE CIT GROUP/EQUIPMENT FINANCING, INC.
1211 Avenue of the Americas
New York, New York 10036
Attention: Senior Vice President - Legal
Fax Number: 212-536-1388

and to:

Seyfarth, Shaw, Fairweather & Geraldson
55 East Monroe Street, Suite 4200
Chicago, Illinois 60603
Attention: Richard Demarest Yant
Fax Number: 312-269-8869

(ii) If to Borrower at:

Residual Based Finance Corporation
Three First National Plaza, Suite 1240
Chicago, Illinois 60602
Attention: President
Fax Number: 312-725-3690

with a copy to:

Schiff, Hardin & Waite
7200 Sears Tower
Chicago, Illinois 60606
Attention: Scott Pickens
Fax Number: (312) 258-5600

or to such other address or number as either party designates to the other in the manner herein prescribed.

Section 4.7. Law Governing. The terms of this Mortgage and all rights and obligations hereunder shall be governed by the laws of New York without regard to conflicts of laws rules; provided, however, that Lender shall be entitled to all rights conferred by the filing, recording or deposit hereof in the appropriate office(s) pursuant to Section 11303 of the Interstate Commerce Act or in such other offices as may be appropriate in the jurisdiction in which the Equipment is operated.

Section 4.8. Counterparts. This Mortgage may be executed in several counterparts, each of which shall be an original and all of which taken together shall constitute one and the same agreement.

Section 4.9. Successors and Assigns. This Mortgage shall be binding upon Borrower and inure to the benefit of Lender and its successors and assigns. Borrower may not assign or transfer its rights hereunder without the prior written consent of Lender.

Section 4.10. Severability. The provisions of this Mortgage are severable and if any clause or provision shall be held invalid and unenforceable in whole or in part in any jurisdiction, then such invalidity or unenforceability shall affect only such clause or provision, or part thereof, in such jurisdiction, and shall not in any manner affect such clause or provision in any other jurisdiction or any other clause or provision of this Mortgage in any jurisdiction. Without limiting the generality of the foregoing, the parties hereto intend that the security interest and chattel mortgage created by this Mortgage and securing the Liabilities shall be severable, and if any portion of the Liabilities shall be invalid, unenforceable or void under applicable law, then the security interest and chattel mortgage created by this Mortgage shall be invalid, unenforceable or void solely to the extent of such invalidity, unenforceability or avoidance of such portion of the Liabilities without rendering the remainder of the security interest and chattel mortgage created by this Mortgage unenforceable, invalid or void.

4.11. Further Assurances. Borrower will, from time to time, do and perform any other act or acts and will execute, acknowledge, and deliver, and file, register, and record (and will re-file, re-register and re-record whenever required) any further instrument, including any extensions and renewals thereof, required by law or reasonably requested by Lender in order to confirm or further assure the interests of Lender hereunder.

Section 4.12. Non-Recourse. Borrower shall not be personally liable for payment of any liabilities secured by this Mortgage, and any action to enforce the obligations of Borrower to pay such liabilities shall be enforceable against Borrower only to the extent of its interest in the Collateral and as provided in the Loan Agreement.

IN WITNESS WHEREOF, Borrower has caused this Mortgage to be duly executed all as of the date first above written, and the undersigned signatories each hereby declare pursuant to 28 U.S.C. Section 1746 under penalty of perjury that the foregoing is a true and correct document and was executed on the date indicated below its signature.

RESIDUAL BASED FINANCE CORPORATION

By: 

Title: President

Date: 12/22/93

ATTEST:

By: 

Title: Secretary

Date: 12/22/93

STATE OF ILLINOIS)
) SS:
COUNTY OF COOK)

On this 22nd day of December, 1993, before me personally appeared Vincent A. Kolber, to me personally known who, being by me duly sworn, says that he is the President of Residual Based Finance Corporation, an Illinois corporation, and that said instrument was signed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.



Veronica L. Nachtwey
Notary Public

(NOTARIAL SEAL)

My Commission Expires: 12/23/96

List of Schedules and Exhibits

Schedule 1 Railcars

Schedule 2 Lease

SCHEDULE 1

RAILCARS

Ninety-six (96) 4,750 cubic foot 100-ton grain covered hopper cars with gravity gates, trough hatches, rack and pinion equipped built in 1978 by Pullman formerly marked and numbered in series FLIX 600-699 (inclusive) (excluding numbers 615, 650, 679 and 685) and currently or to be marked and numbered in series OFCX 600-699 (inclusive) (excluding numbers 615, 650, 679 and 685).

SCHEDULE 2

LEASE

Car Leasing Agreement dated as of October 6, 1993, by and between Residual Based Finance Corporation, and General Mills, Inc.